6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0136; FRL-9961-88-Region 4]

Air Plan Approval; TN: Non-interference Demonstration for Federal Low-Reid Vapor Pressure Requirement in Shelby County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a noninterference demonstration that evaluates whether the change for the Federal Reid Vapor Pressure (RVP) requirements in Shelby County (hereinafter referred to as the "Area") would interfere with the Area's ability to meet the requirements of the Clean Air Act (CAA or Act). Tennessee submitted through the Tennessee Department of Environment and Conservation (TDEC), on April 12, 2017, a noninterference demonstration on behalf of the Shelby County Health Department requesting that EPA change the RVP requirements for Shelby County. Specifically, Tennessee's noninterference demonstration concludes that relaxing the federal RVP requirement from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline sold between June 1 and September 15 of each year in Shelby County would not interfere with attainment or maintenance of the national ambient air quality standards (NAAQS or standards) or with any other CAA requirement.

DATES: Comments must be received on or before **[insert date 30 days after date of**

publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0136 at https://www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit https://www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Lakeman can be reached via telephone at (404) 562-9043 or via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What is Being Proposed Today?

This rulemaking proposes to approve Tennessee's noninterference demonstration, submitted on April 12, 2017, in support of the State's request that EPA relax the federal RVP requirement from 7.8 psi to 9.0 psi for gasoline sold between June 1 and September 15 of each year (i.e., during high ozone season) in Shelby County. The State is requesting the removal of the federal 7.8 psi RVP requirement. As part of that request, Tennessee has evaluated whether removal of this requirement would interfere with air quality in Shelby County. To make this demonstration of noninterference, Tennessee completed a technical analysis, including modeling, to estimate the change in emissions that would result from a switch to 9.0 psi RVP fuel in Shelby County.[1] The noninterference demonstration is further supported by the June 23, 2016 (81 FR 40816), revised and approved maintenance plan that utilizes an RVP input parameter of 9.0 psi.

On January 19, 2016, Tennessee submitted a redesignation request and maintenance plan for the portion of Tennessee that is within the Memphis, Tennessee-Mississippi-Arkansas (Memphis, TN-MS-AR) 2008 8-hour ozone nonattainment area to attainment for the 2008 8-hour ozone NAAQS, which EPA approved on June 23, 2016 (81 FR 40816). Shelby County is in the Tennessee portion of the Memphis, TN-MS-AR area. In the maintenance plan, Tennessee used EPA's Motor Vehicle Emissions Simulator (MOVES) to develop its projected emissions inventory according to EPA's guidance for on-road mobile sources using MOVES version 2014. Future-year on-road mobile source emissions estimates for 2017, 2020, and 2027 were generated with MOVES2014 using an RVP input parameter of 9.0 psi. The maintenance plan showed compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information

[1] As described in Section III of this preamble, Shelby County was originally part of the Memphis, Tennessee (Memphis, TN) 1-hour ozone nonattainment area;later, part of the Memphis, Tennessee-Arkansas (Memphis, TN-AR) 1997 8-hour ozone nonattainment area; and finally, part of the Memphis, Tennessee-Mississippi-Arkansas (Memphis, TN-MS-AR) 2008 8-hour ozone nonattainment area.

to support the demonstration that current and future emissions of nitrogen oxides (NOx) and volatile organic compounds (VOC) remained at or below the 2012 base year emissions inventory. For more detailed information, see EPA's April 19, 2016 (81 FR 22948), proposed approval of the maintenance plan for the 2008 8-hour ozone NAAQS, which was finalized on June 23, 2016 (81 FR 40816).

It should be noted that when Tennessee requested that Shelby County be redesignated to attainment for the 2008 8-hour ozone standard, the State took a conservative approach for the maintenance demonstrations and modeled 9.0 psi for the RVP requirements for this Area as opposed to 7.8 psi. The State did not, at that time, request the removal of the federal RVP requirements for Shelby County.

EPA is proposing to find that Tennessee's noninterference demonstration supports the conclusion that the use of gasoline with an RVP of 9.0 psi in Shelby County will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA.

II. What is the Background for the Shelby County Area?

Shelby County, Tennessee (then referred to as the Memphis, TN Area) was originally designated as a single-county marginal nonattainment area for the 1-hour ozone standard on November 6, 1991 (56 FR 56694). On February 16, 1995 (60 FR 3352), the Memphis, TN Area was redesignated as attainment for the 1-hour ozone standards, and was considered to be a maintenance area subject to a CAA section 175A maintenance plan for the 1-hour ozone standard. Tennessee's 1-hour ozone redesignation request and maintenance plan did not include a request to relax the 7.8 psi federal RVP standard.

On April 30, 2004 (69 FR 23857), EPA designated the Memphis, TN-AR Area, which included Shelby County, as a "moderate" 1997 8-hour ozone NAAQS nonattainment area under Clean Air Act title I, part D, subpart 2 ("Additional Provisions for Ozone Nonattainment Areas"). On July 15, 2004, pursuant to section 181(a)(4) of the CAA, the State of Tennessee submitted a petition to EPA, requesting that the classification of Memphis, TN-AR Area be adjusted downward from "moderate" to "marginal" for the 1997 8-hour ozone standard. The petition was based on the fact that the area's "moderate" design value of 0.092 parts per million (ppm) was within five percent of the maximum "marginal" design value of 0.091 ppm. Pursuant to section 181(a)(4), areas with design values within five percent of the standard may request a reclassification under specific circumstances. EPA approved the petition for reclassification, which became effective on November 22, 2004 (69 FR 56697, September 22, 2004). The Tennessee portion of the Memphis, TN-AR Area (i.e., Shelby County) was redesignated to attainment for the 1997 8-hour ozone NAAQS in a final rulemaking on January 4, 2010 (75 FR 56). Tennessee's 1997 8-hour ozone redesignation request and maintenance plan did not include a request to relax the 7.8 psi federal RVP standard.

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 ppm. *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR part 50.15. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is

greater than 90 percent, and no single year has less than 75 percent data completeness as determined in appendix P of part 50.

Shelby County, as part of the Memphis, TN-AR-MS Area, was designated as a marginal nonattainment area for the 2008 8-hour ozone NAAQS on May 21, 2012 (effective July 20, 2012), using 2008-2010 ambient air quality data. *See* 77 FR 30088. The Tennessee portion of the Memphis, TN-AR Area (i.e., Shelby County) was redesignated to attainment on June 23, 2016 (81 FR 40816). Tennessee's 2008 8-hour ozone redesignation request and maintenance plan did not include a request to relax the 7.8 psi federal RVP standard, although the maintenance plan reflected the 9.0 psi RVP standard. Tennessee is now requesting that EPA remove the federal 7.8 psi RVP requirement for Shelby County.

III. What is the History of the Gasoline Volatility Requirement?

On August 19, 1987 (52 FR 31274), EPA determined that gasoline nationwide had become increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as VOCs, are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function (thereby aggravating asthma or other respiratory conditions), increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Under section 211(c) of CAA, EPA promulgated regulations on March 22, 1989 (54 FR 11868), that set maximum limits for the RVP of gasoline sold during the high ozone season. These regulations constituted Phase I of a two-phase nationwide program,

which was designed to reduce the volatility of commercial gasoline during the summer ozone control season. On June 11, 1990 (55 FR 23658), EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the State, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS during the high ozone season).

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. Section 211(h) prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that EPA may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658). A current listing of the RVP requirements for states can be found on EPA's website at: https://www.epa.gov/gasoline-standards.

As explained in the December 12, 1991 (56 FR 64704), Phase II rulemaking, EPA believes that relaxation of an applicable RVP standard is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an

attainment area, section 107(d)(3) of the Act requires the state to make a showing, pursuant to section 175A of the Act, that the area is capable of maintaining attainment for the ozone NAAQS for ten years after redesignation. Depending on the area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, EPA will not relax the volatility standard unless the state requests a relaxation and the maintenance plan demonstrates, to the satisfaction of EPA, that the area will maintain attainment for ten years without the need for the more stringent volatility standard.

As noted above, Tennessee did not request relaxation of the applicable 7.8 psi federal RVP standard when Shelby County was redesignated to attainment for the 1-hour ozone NAAQS, the 1997 8-hour ozone NAAQS, and the 2008 8-hour ozone NAAQS. Tennessee is therefore now submitting a noninterference demonstration concluding that relaxing the federal RVP requirement from 7.8 psi to 9.0 psi for gasoline sold between June 1st and September 15th of each year in Shelby County would not interfere with attainment or maintenance of the NAAQS.

IV. What are the Section 110(l) Requirements?

To support Tennessee's request to relax the federal RVP requirement in Shelby County, the State must demonstrate that the requested change will satisfy section 110(l) of the CAA. Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. EPA's criterion for determining the approvability of

Tennessee's April 12, 2017, noninterference demonstration, is whether the noninterference demonstration associated with the relaxation request satisfies section 110(l). The modeling associated with Tennessee's maintenance plan for the 2008 8-hour ozone NAAQS is premised upon the future-year emissions estimates for 2017, 2020, and 2027, which are based on the 9.0 psi RVP. EPA is proposing approval of the noninterference demonstration based on an evaluation of current air quality monitoring data and the information provided in the noninterference demonstration.

EPA evaluates each section 110(l) noninterference demonstration on a case-by-case basis considering the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated but for which EPA has not yet made designations. The degree of analysis focused on any particular NAAQS in a noninterference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision. EPA's analysis of Tennessee's April 12, 2017, noninterference demonstration pursuant to section 110(l) is provided below.

EPA notes that in this action, it is only proposing to approve the State's technical demonstration that the Area can continue to attain and maintain the NAAQS and meet other CAA requirements after switching to the sale of gasoline with an RVP of 9.0 psi in Shelby County during the high ozone season. Consistent with CAA section 211(h) and the Phase II volatility regulations, EPA will initiate a separate rulemaking to relax the current federal requirement to use gasoline with an RVP of 7.8 psi in Shelby County.

V. What is EPA's Analysis of Tennessee's Submittal?

a. Overall Preliminary Conclusions Regarding Tennessee's Noninterference

Demonstration

On April 12, 2017, TDEC submitted a noninterference demonstration to support the State's request to modify the RVP summertime gasoline requirement from 7.8 psi to 9.0 psi for the Area. This demonstration includes an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the ozone standards and on the maintenance of the other NAAQS.[2] Tennessee focused its analysis on the impact of the change in RVP to attainment and maintenance of the ozone, particulate matter (PM),[3] and NO_2 NAAQS because: RVP requirements do not affect lead, sulfur dioxide (SO_2), or carbon monoxide (CO) emissions; because VOC and NOx emissions are precursors for ozone and PM; and because NO_2 is a component of NOx.

TDEC's noninterference demonstration relied on a previously-approved maintenance plan (June 23, 2016, 81 FR 40816) in which Tennessee used EPA's MOVES2014 model to develop its projected emissions inventory according to EPA's guidance for on-road mobile sources. The future-year on-road mobile source emissions estimates for 2017, 2020, and 2027 were generated with MOVES2014[4] using a RVP input parameter of 9.0 psi. The maintenance plan showed compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NOx and VOC remained at or below the 2012 base year emissions inventory. Tables 1 and 2 show the direct

[2] The six NAAQS for which EPA establishes health and welfare based standards are CO, lead, NO_2, ozone, PM, and SO_2.

[3] PM is composed of $PM_{2.5}$ and PM_{10}.

[4] MOVES2014a is the latest version of MOVES model. However, the use of MOVES2014 was acceptable when EPA approved Tennessee's 2008 8-hour ozone maintenance plan because MOVES2014 was the latest EPA mobile source model available to the State at the time that it developed the maintenance plan.

impact on mobile source emissions as a result of the change for RVP requirements for Shelby County. As summarized below, NOx and VOC emissions are expected to continue to decrease with the use of the 9.0 psi RVP standard.

Table 1 – On-road Mobile Source Ozone Season NOx Emissions (average tons/day) in Shelby County

9.0 psi RVP			7.8 psi RVP
2017	**2020**	**2027**	**2012**
31.30	**22.42**	**12.51**	**61.56**

Table 2 – On-road Mobile Source Ozone Season VOC Emissions (average tons/day) in Shelby County

9.0 psi RVP			7.8 psi RVP
2017	**2020**	**2027**	**2012**
11.22	**8.75**	**5.81**	**19.01**

These mobile source emissions are used as part of the evaluation of the potential impacts to the NAAQS that might result exclusively from changing the high ozone season RVP requirement from 7.8 psi to 9.0 psi. Therefore, emissions resulting from the change in RVP are not expected to cause the area to be out of compliance with any NAAQS.

b. Noninterference Analysis for the Ozone NAAQS

As a previous 1-hour ozone nonattainment area, Shelby County has been subject to the federal RVP requirements for high ozone season gasoline. Although implemented for purposes of bringing areas into attainment for the 1-hour ozone NAAQS, these federal RVP requirements continued to apply in Shelby County because the State did not, until now, request removal of the federal RVP requirements.

As described previously, Shelby County was redesignated to attainment for the 1-hour

ozone NAAQS, the 1997 8-hour ozone NAAQS, and the 2008 8-hour ozone NAAQS. The Memphis Area is continuing to meet the 1-hour ozone NAAQS, the 1997 8-hour ozone NAAQS, and the 2008 8-hour ozone NAAQS,[5] based on recent air quality monitoring data. Additionally, the current design value (DV) is below the most recently promulgated 2015 ozone NAAQS in the Memphis Area. The 2008 ozone NAAQS is met when the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years is 0.075 ppm or less. Similarly, the 2015 ozone NAAQS, as published in a final rule on October 26, 2015 (80 FR 65292), is met when the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years is 0.070 ppm or less. The trend in DVs for ozone for the Memphis Area is shown in Table 3, with the current DV in the Area being 0.067 ppm in 2015, below the 2015 standard. EPA also evaluated the potential increase in the VOC and NOx precursor emissions and whether it is reasonable to conclude that the requested change to RVP requirements in Shelby County during the high ozone season would cause the Memphis Area to violate any ozone NAAQS.

Table 3 – Memphis Area Ozone Design Value Trends

Years	Design Value (ppm)
2005 – 2007	0.089
2006 – 2008	0.082
2007 – 2009	0.078
2008 – 2010	0.076
2009 – 2011	0.077
2010 – 2012	0.079
2011 – 2013	0.078
2012 – 2014	0.073
2013 – 2015	0.067

[5] The air quality design value for the 8-hour ozone NAAQS is the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentration. The level of the 2008 8-hour ozone NAAQS is 0.075 ppm. The 2008 8-hour ozone NAAQS is not met when the design value is greater than 0.075 ppm.

Table 3 also shows that there is an overall downward trend in ozone concentrations in the Memphis Area. This decline can be attributed to federal and state programs that have led to significant emissions reductions in ozone precursors, such as federal standards in on-road and non-road mobile source sectors and resultant fleet turnover. *See* 81 FR 22948, (April 19, 2016). Given this downward trend, the downward trend in precursor emissions, the current ozone concentrations in the Memphis Area, and the results of Tennessee's emissions analysis, EPA is proposing to determine that a change to 9.0 psi RVP fuel for Shelby County would not interfere with the Memphis Area's ability to maintain the 2008 8-hour ozone NAAQS.

c. Noninterference Analysis for the PM NAAQS

Over the course of several years, EPA has reviewed and revised the $PM_{2.5}$ NAAQS a number of times. On July 16, 1997, EPA established an annual $PM_{2.5}$ NAAQS of 15.0 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour $PM_{2.5}$ NAAQS of 65 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 62 FR 36852 (July 18, 1997). On September 21, 2006, EPA retained the 1997 Annual $PM_{2.5}$ NAAQS of 15.0 $\mu g/m^3$ but revised the 24-hour $PM_{2.5}$ NAAQS to 35 $\mu g/m^3$, based again on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 71 FR 61144 (October 17, 2006). On December 14, 2012, EPA retained the 2006 24-hour $PM_{2.5}$ NAAQS of 35 $\mu g/m^3$ but revised the annual primary $PM_{2.5}$ NAAQS to 12.0 $\mu g/m^3$, based again on a 3-year average of annual mean $PM_{2.5}$ concentrations. *See* 78 FR 3086 (January 15, 2013).

The main precursor pollutants for $PM_{2.5}$ are NOx, SO_2, VOC, and ammonia. As mentioned above, the federal RVP requirements only result in emissions benefits for VOC and

NOx. Therefore, Tennessee focused on these two $PM_{2.5}$ precursors in its analysis of the potential impact of changing the RVP requirements for Shelby County on the $PM_{2.5}$ NAAQS. Tennessee asserted in its 110(l) demonstration that relaxing the RVP standard will have little impact on these precursor emissions in relation to PM formation and is not expected to negatively impact attainment or maintenance of the $PM_{2.5}$ NAAQS. Moreover, there have been a number of studies which have indicated that SO_2 is the primary driver of $PM_{2.5}$ formation in the Southeast.[6]

Given the downward trend in precursor emissions (specifically for NOx and VOC) noted above and given that, as previously stated, RVP does not affect the most significant $PM_{2.5}$ precursor (SO_2), EPA is proposing to determine that a change to 9.0 psi RVP fuel for the affected counties would not interfere with the Area's ability to attain or maintain the $PM_{2.5}$ NAAQS in the Area.

d. Noninterference Analysis for the 2010 NO_2 NAAQS

On February 17, 2012, EPA designated all counties in Tennessee as unclassifiable/attainment for the 2010 NO_2 NAAQS. *See* 77 FR 9532. Based on the technical analysis in Tennessee's April 12, 2017, noninterference demonstration, as shown in Table 3, there is an overall downward trend in ozone concentrations in the Memphis Area, and NO_2, as a component of NOx, is an ozone precursor. This decline can be attributed to federal and state programs that have led to significant emissions reductions in ozone precursors, such as federal standards in on-road and non-road mobile source sectors and resultant fleet turnover. *See* 81 FR

[6] *See, e.g., Quantifying the sources of ozone, fine particulate matter, and regional haze in the Southeastern United States*, Journal of Environmental Engineering (June 24, 2009), available at: http://www.journals.elsevier.com/journal-ofenvironmental-management.

22948, (April 19, 2016). Given this downward trend, the downward trend in precursor emissions, the current ozone concentrations in the Memphis Area, and the results of Tennessee's emissions analysis and the current unclassifiable/attainment designation, EPA is proposing to determine that a change to 9.0 psi RVP fuel for Shelby County would not interfere with maintenance of the 2010 NO_2 NAAQS in the Area.

VI. Proposed Action

EPA is proposing to approve Tennessee's April 12, 2017, noninterference demonstration supporting the State's request to relax the RVP standard to 9.0 psi in Shelby County. EPA is also proposing to find that this change in the RVP requirements for Shelby County will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA.

EPA is proposing that Tennessee's April 12, 2017, SIP noninterference demonstration associated with the State's request for the removal of the federal RVP requirements, are consistent with the applicable provisions of the CAA. Should EPA decide to remove Shelby County from those areas subject to the 7.8 psi federal RVP requirements, such action will occur in a separate, subsequent rulemaking.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR part 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely

approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 17, 2017.

V. Anne Heard

Acting Regional Administrator,

Region 4.

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